

Theodore H. Frank (*pro hac vice*)
CENTER FOR
CLASS ACTION FAIRNESS LLC
1718 M Street NW, No. 236
Washington, DC 20036
Phone: (703) 203-3848
Email: tedfrank@gmail.com

David M. Nieporent
SAMUEL & STEIN
38 West 32nd Street, Suite 1110
New York, NY 10001
Phone: (212) 563-9884

Attorneys for Objectors
Joshua West, Lester Brickman,
Darren McKinney, and Michael Sullivan

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHN M. DEWEY, *et al.*,

Plaintiffs,

vs.

VOLKSWAGEN AG, *et al.*,

Defendants.

Case Nos.:

07-CV-2249-FSH-PS

07-CV-2361-FSH-PS

(consolidated)

**[~~PROPOSED~~] CONSENT ORDER
RELEASING APPELLATE BONDS**

Whereas on October 18, 2010 (Docket No. 293), and November 10, 2010 (Docket No. 296), the Court ordered appellants to collectively post \$25,000 of appeal bonds; and

Whereas on November 10, 2010, Theodore H. Frank deposited \$5,000 with the Court (Docket No. 297); and

Whereas on November 10, 2010, Gary W. Sibley deposited \$5,000 with the Court (Docket No. 298); and

Whereas on November 29, 2010, Theodore H. Frank deposited \$7,500 with the Court (Docket No. 300); and

Whereas on December 1, 2010, Gary W. Sibley deposited \$7,500 with the Court (Docket No. 303); and

Whereas on May 31, 2012, the U.S. Court of Appeals for the Third Circuit ruled in favor of the appellants; and

Whereas the parties to the appeal agree that there will be no further appeals from the May 31 ruling; and

Whereas the parties to the appeal agree that there is no just cause for the Court to continue to hold the appeal bonds of the objectors-appellants in this case;

Whereas the divestiture rule and absence of a mandate not
THEREFORE IT IS HEREBY ORDERED as follows:

1. The Clerk of the Court shall remit the \$12,500 deposited by Theodore H. Frank to the Center for Class Action Fairness LLC, 1718 M Street NW No. 236, Washington, DC 20036.

barring action on this request because:

*① The District Court has the authority to order the posting of a cost bond. See Fed R. App P 7; In Re Insurance Brokerage, Civ No 04-5684, 2007 WL 1963063 *2 (D.N.J. July 2 2007) and by extension should have authority to order return once the purpose of the bond is served, ② the objectors who posted the cost bonds will not be required to pay costs associated with the appeal, and ③ having the District Court address the request will not cause confusion or inefficiency as two courts will not simultaneously be addressing this issue. Mary Ann Pensiero*

*Venero
Sweet
758 F.2d 117,
120-21 (630
Cir. 1985)*

2. The Clerk of the Court shall remit the \$12,500 deposited by Gary W. Sibley to The Sibley Firm, 2414 North Akard Street, Suite 700, Dallas, Texas 75201.

Dated: July 9, 2012

BY THE COURT:



HONORABLE PATTY SHWARTZ, U.S.M.J.

Submitted by: /s/ David M. Nieporent
David M. Nieporent
Counsel for the West Objectors

/s/ Gary W. Sibley
Gary W. Sibley
Counsel for the Sibley Objectors

/s/ Adam M. Slater
Adam M. Slater
Counsel for Plaintiffs

/s/ Samuel P. Sporn
Samuel P. Sporn
Counsel for Plaintiffs

/s/ Jeffrey L. Chase
Jeffrey L. Chase
Counsel for Defendants